FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.2167 OF 2006

Devendra Natwarlal Maniar)..Applicant
Versus
The State of Maharashtra)..Respondent

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders

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Mr.A.P.Mundargi i/by Niranjan Mundargi for the applicant.

Mr.Y.S.Shinde, APP for the State.

Coram : R.S.Mohite,J

Date : 11.7.2006.

PC

1. This is an application for grant of bail. The applicant is arraigned as an accused in NDPS Special Case No.126/2004 pending in the Court of the Special Judge taking NDPS cases in Mumbai. The allegation against the applicant is that one Mohammad Abdulla was found to be carrying 9875 ampoules of buprenorphine. Investigation indicates that the same had been furnished by one Tejas Enterprises of which the wife of

the present applicant was a Proprietor. The short question that is argued is that whether this drug falls under the NDPS Act. It is argued that the Delhi High Court as well as this Court taken a view that the same substance is not covered under the NDPS Act. From the compilation of judgments which is taken on record it is clear that such a view has been taken by the Delhi High Court in the case of **Rajendra Gupta V/s. State** decided alongwith a group of batch of other petitions by a single Judge of the Delhi High Court. A similar view has also been taken by this Court in the case of **M.V.Henry V/s. Ravi Prakash Goel & Anr.** Delhi High Court has granted bail on such finding whereas our Court has confirmed the finding granting bail. APP points out that from the batch of matters decided by the Delhi High Court, Union of India has gone to the Supreme Court. On perusing the Supreme

Court's order it is found that the Supreme Court did not interfere with the bail order but observed that finding about the drug being covered by NDPS Act will not have any persuasive effect when the matter was finally considered before the Special Judge on merits.

2. In the circumstances, I am inclined to grant bail by giving similar direction as given by the Apex Court in the case of **Union of India V/s. Devang Bipin Parikh & Ors.** It is therefore, directed that pending his trial in NDPS Special Case No.126/2004, the applicant may be released on bail in the sum of Rs.30,000/- with one surety in the like amount subject to the condition that he will report to the concerned investigating officer once a month on every 1st Monday till the disposal of the trial. It is further clarified and directed that this order, given

on the footing that the drug is not covered under the NDPS Act will be treated as a prima facie finding and will not have any persuasive effect when the matter is finally considered and disposed of by the Special Judge on merits. Application stands disposed off.

(R.S.Mohite,J)